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September 7, 2005

**VIA FAX -- (601) 352-7757 and REGULAR MAIL**

Ms. Betty Mallett  
McGlinchey Stafford PLLC  
City Centre, Suite 1100  
200 South Lamar Street  
Jackson, MS 39201

Re: *Olivia Y. et al. v. Barbour et al.*

Dear Betty:

I write in response to your letter of September 1, 2005, requesting that Plaintiffs agree to a 90-day stay of this case.

In light of the aftermath of Hurricane Katrina, we can certainly agree to a reasonable extension of the Case Management Order deadlines, but we have concerns that we would like to discuss with you this week as to several matters.

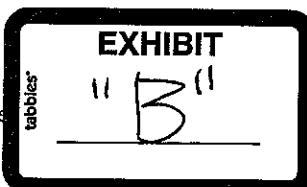
First, any continuance of the pretrial deadlines is likely to delay trial. Not only does this delay the prospect of relief for the plaintiff class, but the evidence we collected through our case record review risks being viewed as stale. Plaintiffs' sample was drawn from a June 2005 DHS custody listing; thus relevant data was collected through May 2005. To avoid incurring additional time and expense of conducting a supplemental review post-Katrina, the parties would need to agree on a consent order that recognizes that Plaintiffs' case record review data was taken from a representative time period, thus barring any argument that the case record review data is stale.

Second, we have previously brought to your attention substantial deficiencies in Defendants' document production that predate Hurricane Katrina by a matter of months. In particular, I note that Defendants have yet to produce (1) maltreatment in care investigation reports or (2) any documents from the Governor's office regarding DFCS fiscal/budgeting issues. There is no reason why document review and production by Defendants' counsel and any remaining discovery motion practice cannot go forward now.

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Third, we need to discuss when DHS can reschedule John A.'s examination and Robin Wilson, Peter Boulette and Maggie Mixon's depositions. Dr. Hiatt is available to examine John A. on September 28 or October 12, 2005. While we certainly understand the devastating situation in Hattiesburg, where John A. lives, we would like to agree now on a date to reschedule the examination, so that once you are able to reach John A., you will have a date to discuss with him. Likewise, while we appreciate the extraordinary situation that has come about with many DHS staff following Hurricane Katrina, we would like to discuss proposed dates to reschedule the depositions of the Jackson-based Wilson, Boulette and Mixon.

In light of the above concerns, we propose a 60-day continuance of all CMO pre-trial dates. I suggest that we set up a telephone conference this week to address these issues and prepare a consent order for the Court's endorsement. Please let me know if this Friday, September 9, 2005, at 10:00 a.m. is a convenient time, and I will make the teleconference arrangements. I look forward to hearing from you.

Sincerely yours,



W. Wayne Drinkwater, Jr.